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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,195	09/26/2005	Michael Baentsch	CH920020034US1	8361
68168 7590 07/29/2009 MICHAEL BUCHENHORNER, P.A. 8540 SW 83 STREET SUITE 100 MIAMI, FL 33143				
EXAMINER HENNING, MATTHEW T				
ART UNIT		PAPER NUMBER		
2431				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/532,195

**Applicant(s)**

BAENTSCH ET AL.

**Examiner**

MATTHEW T. HENNING

**Art Unit**

2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 42-45 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 42-45 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 21 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

This action is in response to the communication filed on 4/2/2009.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 4/2/2009 have been fully considered but they are not persuasive.

All objections and rejections not set forth below have been withdrawn.

Claims 1, and 42-45 have been examined. Claims 2-41 have been cancelled.

### ***Title***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 4/2/2009 was filed after the mailing date of the first action on the merits on 1/2/2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, note that the references listed have not been provided by the applicants, and as such have not been considered.

### ***Specification***

While the amendment to the specification was not compliant with 37 CFR 1.121, because no markings indicating the changes made were shown, the examiner has examined the claims in order to prevent any delay in prosecution of the application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

Claims 1 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushmitch et al (US Patent Application Publication 2002/0159601) hereinafter referred to as Bushmitch, and further in view of Morlang et al. (US Patent Application Publication 2003/0182576) hereinafter referred to as Morlang.

Bushmitch disclosed a method for providing a user device with a set of access codes, the method comprising: receiving from a user device a first message comprising an identification code associated with an encryption key stored in the user device, wherein the first message is sent via a communications network (Bushmitch Paragraphs 0074-0075); storing an encryption key corresponding to the encryption key and the identification code stored in the user device (Bushmitch Paragraph 0076), allocating the set of access codes on receipt of the identification code from the user device (Bushmitch Paragraph 0075), encrypting the set of access codes using the encryption key to produce an encrypted set (Bushmitch Paragraph 0075), and sending a second message containing the encrypted set to the user device for storing (Bushmitch Paragraph 0075); and, upon a number of unused access codes for the user device reaching a predetermined

1 threshold (zero), sending a third message containing a new set of access codes to the user device  
2 via the network (Bushmitch Paragraph 0053), wherein the new set of access codes are encrypted  
3 with the encryption key associated with the identification code (Bushmitch Paragraph 0075).  
4 However, Bushmitch did not specifically disclose performing, at the server, a look up function  
5 based on the identification code received in the message to retrieve the key from storage.

6 Morlang teaches that in order to protect communications between two nodes, an  
7 encryption key can be shared between the nodes, and stored in a table with an associated  
8 identifier. Then, in order to establish the encrypted connection, the client can send a message  
9 including the session identifier, which the server uses to retrieve the encryption key, and then  
10 encrypt the communications (Morlang Paragraphs 0025-0026).

11 It would have been obvious to the ordinary person skilled in the art at the time of  
12 invention to have employed the teachings of Morlang in the system of Bushmitch by sending a  
13 session identifier from the portable storage device to the gateway in order to allow the gateway  
14 to determine a proper pre-shared encryption key. This would have been obvious because the  
15 ordinary person skilled in the art would have been motivated to protect the communications  
16 between the gateway and the portable storage device.

17 Regarding claim 43, Bushmitch and Morlang taught tracking the access codes used by the  
18 user device, and sending the new set of access codes to the user device in response to the number  
19 of unused access codes reaching a predetermined threshold (Bushmitch Paragraph 0053).

20 Claims 42, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the  
21 combination of Bushmitch and Morlang as applied to claim 1 above, and further in view of Seth-  
22 Smith et al. (US Patent 4,890,321) hereinafter referred to as Seth-Smith.

Regarding claim 42, while Bushmitch and Morlang did disclose receiving a request for the new set of access codes from the user device, comparing the number of unused access codes to the predetermined threshold after every use; and sending the new set of access codes to the user device upon receipt of the request (Bushmitch Paragraph 0053), Bushmitch and Morlang did not disclose wherein the user device tracks its own access code use. However, Bushmitch did disclose that the user device knew how many access codes had been used (Bushmitch Paragraph 0053).

Seth-Smith teaches that in a credit system, when the credit is running low, the user's system can alert the user such that the user may obtain more credit (Seth-Smith Col. 28 Lines 27-47).

It would have been obvious to the ordinary person skilled in the art at the time of invention to have employed the teachings of Seth-Smith in the authentication provisioning system of Bushmitch and Morlang by having the client check and see if the number of authentications left are low, and if so alert the user. This would have been obvious because the ordinary person skilled in the art would have been motivated to alert the user that re-initialization is necessary.

Regarding claim 44, Bushmitch, Morlang, and Seth-Smith taught that the request is sent from the user device responsive to a manual input from the user (Bushmitch Paragraph 0074).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bushmitch and Morlang as applied to claim 1 above, and further in view of Rune (US Patent Number 5,850,444).

1           While Bushmitch and Morlang taught sending a message containing the encrypted set of  
2   access codes (Bushmitch Paragraph 0075), Bushmitch and Morlang failed to specifically teach  
3   receiving from the user device a fourth message comprising a public key of a public/private key  
4   pair generated at the user device; generating a session key; encrypting the set of access codes  
5   with the session key to produce a session key encrypted set; encrypting the session key with the  
6   public key to produce an encrypted session key; and sending a message containing the session  
7   key encrypted set and the encrypted session key to the user device via the network.

8           Rune, on the other hand, teaches that in order to securely transmit data, receiving from  
9   the user device a message comprising a public key of a public/private key pair generated at the  
10   user device; generating a session key; encrypting the set of access codes with the session key to  
11   produce a session key encrypted set; encrypting the session key with the public key to produce  
12   an encrypted session key; and sending a message containing the session key encrypted set and  
13   the encrypted session key to the user device via the network (Rune Col. 3 Lines 34-50).

14           It would have been obvious to the ordinary person skilled in the art at the time of  
15   invention to have employed the teachings of Rune in the re-initialization process of Bushmitch  
16   and Morlang by receiving from the client a message comprising a public key of a public/private  
17   key pair generated at the client; generating a session key; encrypting the set of authentication  
18   data with the session key to produce a session key encrypted set; encrypting the session key with  
19   the public key to produce an encrypted session key; and sending a message containing the  
20   session key encrypted set and the encrypted session key to the client via the network. This  
21   would have been obvious because the ordinary person skilled in the art would have been  
22   motivated to provide a secure manner of distributing the authentication data.

***Conclusion***

Claims 1 and 42-45 have been rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW T. HENNING whose telephone number is (571)272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571)272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew T Henning/  
Examiner, Art Unit 2431